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Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

02-278

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SEP 9 2003

Control No 0302437-Pol

The Honorable Maria Cantwell
United States Senator
Foley Federal Courthouse
West 920 Riverside, Suite 697
Spokane, WA 99201

RECEIVED

SEP 29 2003

Dear Senator Cantwell:

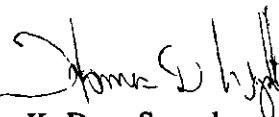
Federal Communications Commission
Office of the Secretary

Thank you for your letter of July 29, 2003, on behalf of your constituent, Mr. Jim Lowell, regarding the Federal Communications Commission's (Commission) recent amendments to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). Mr. Lowell raised a question specifically about telemarketers' responsibility for inadvertent errors under the TCPA rules.

The Commission's rules provide a "safe harbor" for telemarketers that have made a good faith effort to comply with the national do-not-call requirements. A seller or telemarketer acting on behalf of the seller that has made a good faith effort to provide consumers with an opportunity to exercise their do-not-call rights should not be liable for violations that result from an error. We concluded that a seller or the entity telemarketing on behalf of the seller will not be liable for violating the national do-not-call rules if it can demonstrate that, as part of the seller's or telemarketer's routine business practice: (i) it has established and implemented written procedures to comply with the do-not-call rules; (ii) it has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to the do-not-call rules; (iii) the seller, or telemarketer acting on behalf of the seller, has maintained and recorded a list of telephone numbers the seller may not contact; (iv) the seller or telemarketer uses a process to prevent telemarketing to any telephone number on any list established pursuant to the do-not-call rules employing a version of the do-not-call registry obtained from the administrator of the registry no more than three months prior to the date any call is made, and maintains records documenting this process; and (v) any subsequent call otherwise violating the do-not-call rules is the result of error.

Thank you for allowing us to be of assistance in this matter. We have placed a copy of your correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,


K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

No. of C. & G. rec'd 2
List ABCDE

MARIA CANTWELL
WASHINGTON

COMMITTEES
COMMERCE, SCIENCE, AND
TRANSPORTATION
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United States Senate

WASHINGTON, DC 20510-4705

July 29, 2003

Mr. Paul Jackson
Director Office of Legislative and Intergovernment Affairs
Federal Communications Commission
445 12th Street Southwest, Rm 8-C453
Washington, D.C. 20024

RE: Mr. Jim Lowell
7712 South Pineview Lane
Spokane, Washington 99206-8351

Dear Mr. Jackson:

My constituent, Mr. Jim Lowell, has contacted my office for assistance with an issue within your jurisdiction. The following information provides an explanation of my constituent's concern or request. I would appreciate your prompt attention to this matter, and I look forward to your response.

Mr. Lowell, an investment consultant who conducts business by phone, inquired this morning whether or not he would be fined \$11,000 for calling a number on the *Do Not Call List* that erroneously shows up on his list of phone numbers to call. His question is basically this: If a type-o resulted in his company calling a phone number on the *Do Not Call List*, would it result in a heavy fine for his business even if there was no intentional wrongdoing?

Please direct your response to Marsha Moore in my Spokane District Office at Foley Federal Courthouse, West 920 Riverside, Suite 697 Spokane, Washington, 99201. Marsha Moore can be reached via: phone: 509-353-2507, fax: 509-353-2547, or email: marsha_moore@cantwell.senate.gov.

If I can provide any additional information, please do not hesitate to contact my office. Again, thank you for your assistance in this matter.

Sincerely,



Maria Cantwell
United States Senator

PLEASE REPLY TO

✉ U.S. FEDERAL COURTHOUSE
WEST 920 RIVERSIDE, SUITE 697
SPOKANE, WA 99201
(509) 353-2507
FAX (509) 353-2547

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RICHLAND, WA 99352
(509) 946-8106
FAX (509) 946-9377

☐ 717 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-4705
(202) 224-3441
FAX (202) 228-0514

Internet: maria_cantwell@cantwell.senate.gov
Web: <http://cantwell.senate.gov>
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18 AUG 2003 RCVD